

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 25, 2002

IN RE:

**PETITION FOR APPROVAL OF A RESALE
AGREEMENT NEGOTIATED BETWEEN
UNITED TELEPHONE-SOUTHEAST, INC.
AND NOW COMMUNICATIONS, INC.**

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DOCKET NO. 02-00414

ORDER APPROVING RESALE AGREEMENT

The *Petition* came before the Tennessee Regulatory Authority (the "Authority") requesting approval of the resale agreement negotiated between United Telephone-Southeast, Inc. and NOW Communications, Inc. at the June 11, 2002 Authority Conference. The Agreement was filed on April 12, 2002 and came before the Authority pursuant to 47 U.S.C. § 252.

Based upon the record in this matter and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously approved the Agreement and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The Agreement is in the public interest as it provides consumers with alternative sources of telecommunications services within the United Telephone-Southeast, Inc. service area.
- 3) The Agreement is not discriminatory to telecommunications service providers that are not parties thereto.

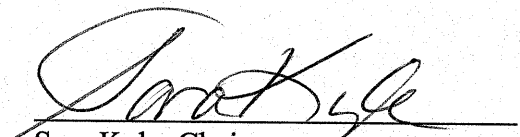
4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the Agreement is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

5) No person or entity has sought to intervene in this docket.

6) The Agreement is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:


The Resale Agreement negotiated between United Telephone-Southeast, Inc. and NOW Communications, Inc. is approved and is subject to the review of the Authority as provided herein.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:


K. David Waddell, Executive Secretary

¹ See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).